

CUSTOMER NO.: 24498
Serial No: 09/488,578
Office Action dated: 10/06/08
Response dated: 11/13/08

PATENT
PU040186 (CIP 1)

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Remarks/Arguments

The Final Office Action mailed October 6, 2008 has been reviewed and carefully considered. Claims 1-35 are pending in this application. No new matter has been added. Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested.

Rejection under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-35 under 35 U.S.C. §102(b) based upon the public use or sale of the invention more than one year prior to the filing of the related patent application. The Applicants respectfully assert that this matter has been discussed and resolved between the Examiner and Applicants' attorney in a related application, namely, U.S. Serial No. 10/121,608.

The present application is a continuation in part of U.S. Serial No. 10/121,608, which has been duly noted and incorporated by reference in the specification of the present application (Present specification page 1, lines 5-10). During prosecution of U.S. Serial No. 10/121,608, the identical 35 U.S.C. §102(b) rejection and related grounds verbatim which is currently asserted by the Examiner was formerly made in the Final Rejection on March 28, 2007 as applied to Claims 117, 119, and 120 of the parent application. Applicants submitted an Office Action response on June 26, 2007 which was comprehensively responsive to the 35 U.S.C. §102(b) rejection asserted by the Examiner in the parent application. Subsequent to a telephone interview initiated by Examiner, amendments were made to Claim 117 in a Supplemental Response to delete mention of a timer and resolve some allegedly indefinite claim language (*Please see "Supplemental Response or Supplemental Amendment" dated 2007-08-21 in the image file wrapper of U.S. Serial No. 10/121,608*). The amendment to Claim 117 was entered by the Examiner on August 8, 2007 and subsequently, Claims 117, 119, and 120 – all originally subject to the same 35 U.S.C. §102(b) rejection – proceeded to issue on November 7, 2007 (*Please see "Issue Notification" dated 2007-11-07 in the image file wrapper of U.S. Serial No. 10/121,608*). Further, not only have these prior arguments been referenced during prosecution of the present application in the Applicants' Office Action response dated June 9, 2008, but they have also been duly reiterated. Thus, Applicants respectfully assert that said issuance

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upon responsive and unopposed arguments to the very same 35 U.S.C. §102(b) rejection is wholly inconsistent with the currently asserted rejection by the Examiner in the present continuation-in-part application.

Applicants therefore respectfully request reconsideration and withdrawal of the rejection or alternatively, for the Examiner to conduct another telephone interview with the Applicants' Attorney in an effort to finally resolve this matter.

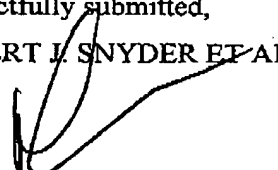
Conclusion

In view of the foregoing remarks, the Applicants respectfully solicit reconsideration of the Examiner's current rejections and allowance of the claims on the merits. If, however, the Examiner believes such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6820, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due with regard to the filing of this amendment. However, if a fee is due, please charge the fee, or credit any overpayment to Deposit Account No. 07-0832.

Respectfully submitted,
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